

49-15-403 Annual cost-of-living adjustment.

- (1) The office shall make an annual cost-of-living adjustment to:
 - (a) an original allowance paid under Section 49-15-402 and Part 5, Death Benefit, of this chapter if the allowance has been paid for at least one year; and
 - (b) an original payment made to an alternate payee under a domestic relations order if the payment is to be paid as a percentage of the allowance rather than a specific dollar amount.
- (2)
 - (a) Unless Subsection (2)(b) applies, the original allowance shall be increased by the annual increase in the Consumer Price Index up to a maximum of 2.5%.
 - (b) If the participating employer has made an election under Subsection (5), and in lieu of the annual increase under Subsection (2)(a), the original allowance shall be increased by the annual increase in the Consumer Price Index up to a maximum of 4%.
 - (c) Annual increases in the Consumer Price Index in excess of the applicable maximum annual increase under this Subsection (2), shall be accumulated and used in subsequent adjustments when the annual increase in the Consumer Price Index is less than the applicable maximum annual increase under this Subsection (2).
- (3) The Consumer Price Index used in calculating adjustments shall be a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.
- (4) The cost-of-living adjustment made under this section may not decrease the allowance.
- (5)
 - (a) A participating employer may make a one-time election to provide the annual cost-of-living adjustment under Subsection (2)(b), in lieu of the annual cost-of-living adjustment under Subsection (2)(a), for the participating employer's current and future retirees.
 - (b) A participating employer shall make the election under this Subsection (5) prior to December 1, 2012.
 - (c) The participating employer shall indicate whether or not it elects to participate in this benefit by enacting a resolution or ordinance to that effect and making an application to the office.
 - (d) The effective date for the annual cost-of-living adjustment under Subsection (2)(b) is January 1 of the year following an election under Subsection (5)(a).
 - (e) Notwithstanding the election provided under this section, the state, as a participating employer, shall provide the annual cost-of-living adjustment under Subsection (2)(b) to its eligible employees and retirees effective on January 1, 2009.
- (6)
 - (a) To be eligible for the annual cost-of-living adjustment under Subsection (2)(b), a retiring employee shall earn the final 72 months of service credit prior to initial retirement:
 - (i) as an employee of a participating employer who:
 - (A) has made the election under Subsection (5)(a); or
 - (B) is included under Subsection (5)(e); and
 - (ii) in a covered position under Title 49, Chapter 14, Public Safety Contributory Retirement Act or under Title 49, Chapter 15, Public Safety Noncontributory Retirement Act.
 - (b) The annual cost-of-living adjustment under Subsection (2)(b) may not be paid to a retiree who is not eligible under this Subsection (6).
- (7) An allowance adjustment made under Subsections (2)(b) and (5) may not be paid prior to the effective date of the enhanced cost-of-living adjustment for the participating employer.
- (8) The board may adopt rules for:
 - (a) the administration of the election provided under Subsection (5); and
 - (b) the effective date of the enhanced cost-of-living adjustment for participating employers.

Amended by Chapter 101, 2009 General Session
Amended by Chapter 221, 2009 General Session